

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH,
JAIPUR**

O R D E R

S.B. Civil Writ Petition No. 17397/2012

Godhu Ram Bagda & Ors. versus State of Rajasthan & Anr.

Date of Order : 31st October, 2012

HON'BLE MR. JUSTICE ALOK SHARMA

Mr. Pradeep Singh, for the petitioner.

Mr. Cheta Bairwa, Addl. Government Counsel for the respondent.

The petitioners before this Court seek directions to the respondent department to declare them semi permanent and permanent on the post Store Munshi on completion of two years and ten years of service respectively on the said post in conformity with Rule 3(3) and 3(2) of the Work Charge Service Rules, 1964 ('the Rules of 1964' for brevity), as extant at the time relevant to the petitioners' right to consideration.

2. It is submitted that at the time petitioners' right to be declared semi permanent and permanent on the post of Store Munshi arose, the aforesaid rules were in operation. Documents filed in support of writ petition indicate that there is no dispute whatsoever that the petitioners were/are discharging duties on the post of Store Munshi and having had the requisite qualification for the aforesaid post under the Rules of 1964. It is submitted that the persons similarly placed as the petitioners, have already been conferred status of semi permanent and permanent on the post of Store Munshi under the Rules of 1964, in view of the fact that in spite of appointment as Helper on muster roll basis they had been required to discharge duties on the post of Store Munshi, in view of their qualification and the

requirement of department. Various orders passed by this Court granting similar relief as prayed for in this writ petition in several writ petitions earlier filed have been annexed to the writ petition from Annexure - 5 to 9.

3. It is submitted that the petitioners are suffering grave injustice, as those juniors to the petitioners also appointed as Helpers but working as Store Munshis have been conferred status of semi permanent and permanent. It has been submitted that the petitioners are still working as Store Munshi. Counsel for the petitioner has submitted that the only comprehensible but irrelevant difference in the case of the petitioners and their being denied the conferment of status semi permanent and permanent on the post of Store Munshi under the Rules of 1964 with others similarly placed is that such persons had approached this Court and on the court's direction have been conferred status of semi permanent and permanent Store Munshis. It is submitted that others with the capacity to pursue their case effectively with the department have also been conferred such status and the petitioners in spite of being similarly if not better placed, have been overlooked for the grant of status of semi permanent and permanent as Store Munshis at the end of two years and ten years respectively under the then extant Rules of 1964.

4. It is submitted by the counsel for the petitioner that the controversy involved in the present writ petition is squarely covered by decision of this Court rendered in the case of Lal Chand Sharma versus The State of Rajasthan & Ors. [S.B. Civil Writ Petition No. 4838/1996] decided on 2nd February, 2010. Counsel submits that appeal against the said judgment has also been dismissed. It is submitted that following the judgment in the case of Lal Chand Sharma (supra) orders based thereon have been passed in S.B. Civil Writ Petition No. 8062/2008 titled Ram Swaroop versus State of Rajasthan & Ors. decided on 30th March, 2010 and S.B. Civil Writ Petition No. 5393/2010 titled Umashanker

Gupta versus State of Rajasthan & Ors decided on 29th August, 2012. In these circumstances, it has been prayed that the petitioners be allowed similar relief.

5. Mr. Chetan Bairwa Addl. Government Counsel appearing for the respondent department is not in a position to controvert the facts stated by the counsel for the petitioners or the reality of the various judgments passed by this Court in similar cases such as Lal Chand Sharma (supra), Ram Swaroop (supra) and Umashanker Gupta (supra), which thus far obtain finality and in pursuance whereof orders of conferment of semi permanent and permanent status on the post of Store Munshi have been passed in respect of incumbents, who albeit appointed as Helper on muster roll had in fact worked as Store Munshis in view of their qualification and the requirement of the department at the relevant time.

6. Having heard the learned counsel for the parties, I am of the considered opinion that aside of the various orders passed by this Court referred to above, the application of the principle enunciated therein has to be with reference to the facts of each individual claiming parity. Hence, the writ petition should be disposed of to my mind with liberty to the petitioners to make individual representation to the respondent department to consider their case for conferment of the status of semi permanent and permanent Store Munshi in view of the each applicant having discharged duties of Store Munshi in spite of appointment as Muster Roll Helper and in view of his qualification and the requirement of the department of his service. Simultaneously, the respondent department should be directed to decide each of the representation submitted by the petitioners in the light of the judgment of this Court in the case of Lal Chand Sharma and other similar matters referred above.

7. Consequently, this writ petition as also stay application is disposed

of with liberty to the petitioners to file separate representation to the respondent department within a period of 15 days from today detailing their case and claiming semi permanent and permanent status of Store Munshi in view of working continuously for several years on the said post in spite of appointment on the post of Helper on muster roll basis. In the event the representations is made by the petitioners within a period of 15 days from today, the respondent department is directed to consider and decide the same within two months of receipt taking into consideration the facts of the petitioners' case juxtaposed to the principle laid down in the judgment of this Court in the case of Lal Chand Sharma (supra).

8. The writ petition stands disposed of, accordingly.

(ALOK SHARMA),J.

Mak/-⁷

All Corrections made in the order

have been incorporated in the order being emailed.

Anil Makawana

Jr. Personal Assistant